

AMENDED IN ASSEMBLY JUNE 29, 1998

AMENDED IN SENATE APRIL 27, 1998

**SENATE BILL**

**No. 2172**

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**Introduced by Senator Sher**

February 20, 1998

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An act to amend Section 25150.6 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 2172, as amended, Sher. Hazardous waste: management activities: exemption.

Existing law provides for the regulation of hazardous waste under the hazardous waste control laws by the Department of Toxic Substances Control and specified local agencies. Under existing law, the department is authorized to exempt, until January 1, 2002, by regulation, a hazardous waste management activity from requirements of the hazardous waste control laws, subject to specified conditions. The department is required to prepare a specified evaluation of the activity and make a specified demonstration when adopting such a regulation to exempt a hazardous waste management activity.

This bill would require the department to prepare the analysis in a specified manner, including making a preliminary analysis available to the public, and would provide for related matters concerning notice of the proposal to adopt such a regulation.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25150.6 of the Health and Safety  
2 Code is amended to read:  
3 25150.6. (a) Except as provided in subdivision (e),  
4 the department, by regulation, may exempt a hazardous  
5 waste management activity from one or more of the  
6 requirements of this chapter, if the department does all  
7 of the following:  
8 (1) Prepares an analysis of the hazardous waste  
9 management activity to which the exemption will apply  
10 pursuant to subdivision (b). The department shall first  
11 prepare the analysis as a preliminary analysis and make  
12 it available to the public at the same time that the  
13 department gives notice, pursuant to Section 11346.4 of  
14 the Government Code, that it proposes to adopt a  
15 regulation exempting the hazardous waste management  
16 activity from one or more of the requirements of this  
17 chapter. *The department shall include, in the notice, a*  
18 *reference that the department has prepared a*  
19 *preliminary analysis and a statement concerning where*  
20 *a copy of the preliminary analysis can be obtained.* The  
21 information in the preliminary analysis shall be updated  
22 and the department shall make the analysis available to  
23 the public as a final analysis not less than ten working days  
24 prior to the date that the regulation is adopted.  
25 (2) Demonstrates that one of the conclusions required  
26 by subdivision (c) is valid.  
27 (3) Imposes, as may be necessary, conditions and  
28 limitations on the exemption that ensure that the  
29 exempted activity will not pose a significant potential  
30 hazard to human health or safety or to the environment.  
31 (b) Before the department gives notice of a proposal  
32 to adopt a regulation exempting a hazardous waste  
33 activity from one or more of the requirements of this  
34 chapter pursuant to subdivision (a), and before the  
35 department adopts the regulation, the department shall

1 evaluate the hazardous waste management activity and  
2 prepare, as required by paragraph (1) of subdivision (a),  
3 an analysis that addresses all of the following aspects of  
4 the activity, to the extent that the requirement or  
5 requirements from which the activity will be exempted  
6 can affect these aspects of the activity:

7 (1) The types of hazardous waste streams and the  
8 estimated amounts of hazardous waste that are managed  
9 as part of the activity and the hazards to human health or  
10 safety or to the environment posed by reasonably  
11 foreseeable mismanagement of those hazardous wastes  
12 and their hazardous constituents. The estimate of the  
13 amounts of hazardous waste that are managed as part of  
14 the activity shall be based upon information reasonably  
15 available to the department.

16 (2) The complexity of the activity, and the amount and  
17 complexity of operator training, equipment installation  
18 and maintenance, and monitoring that are required to  
19 ensure that the activity is conducted in a manner that  
20 safely and effectively manages the particular hazardous  
21 waste stream.

22 (3) The chemical or physical hazards that are  
23 associated with the activity and the degree to which those  
24 hazards are similar to, or differ from, the chemical or  
25 physical hazards that are associated with the production  
26 processes that are carried out in the facilities that produce  
27 the hazardous waste that is managed as part of the  
28 activity.

29 (4) The types of accidents that might reasonably be  
30 foreseen to occur during the management of particular  
31 types of hazardous waste streams as part of the activity,  
32 the likely consequences of those accidents, and the actual  
33 reasonably available accident history associated with the  
34 activity.

35 (5) The types of locations at which the activity may be  
36 carried out, an estimate of the number of these locations,  
37 and the types of hazards that may be posed by proximity  
38 to the land uses described in subdivision (b) of Section  
39 25232. The estimate of the number of locations at which

1 the activity may be carried out shall be based upon  
2 information reasonably available to the department.

3 (c) The department shall not give notice proposing  
4 the adoption of, and the department may not adopt, a  
5 regulation pursuant to subdivision (a) unless it first  
6 demonstrates, using the information developed in the  
7 analysis prepared pursuant to subdivision (b), that one of  
8 the following is valid:

9 (1) The requirement from which the activity is  
10 exempted is not significant or important in either of the  
11 following:

12 (A) Preventing or mitigating potential hazards to  
13 human health or safety or to the environment posed by  
14 the activity.

15 (B) Ensuring that the activity is conducted in  
16 compliance with other applicable requirements of this  
17 chapter and the regulations adopted pursuant to this  
18 chapter.

19 (2) A requirement is imposed and enforced by  
20 another public agency that provides protection of human  
21 health and safety and the environment that is as effective  
22 as, and equivalent to, the protection provided by the  
23 requirement, or requirements, from which the activity is  
24 being exempted.

25 (3) Conditions or limitations imposed on the  
26 exemption will provide protection of human health and  
27 safety and the environment equivalent to the  
28 requirement, or requirements, from which the activity is  
29 exempted.

30 (4) Conditions or limitations imposed on the  
31 exemption accomplish the same regulatory purpose as  
32 the requirement, or requirements, from which the  
33 activity is being exempted but at less cost or greater  
34 administrative convenience and without increasing  
35 potential risks to human health or safety or to the  
36 environment.

37 (d) A regulation adopted pursuant to this section shall  
38 not be deemed to meet the standard of necessity,  
39 pursuant to Section 11349.1 of the Government Code,

1 unless the department has complied with subdivisions  
2 (b) and (c).

3 (e) The department shall not exempt a hazardous  
4 waste management activity from a requirement of this  
5 chapter or the regulations adopted by the department if  
6 the requirement is also a requirement for that activity  
7 under the federal act.

8 (f) The authority of the department to adopt  
9 regulations pursuant to this section shall remain in effect  
10 only until January 1, 2002, unless a later enacted statute,  
11 which is enacted before January 1, 2002, deletes or  
12 extends that date. This subdivision does not invalidate any  
13 regulation adopted pursuant to this section prior to the  
14 expiration of the department's authority.

